

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LUIS E. ARAUJO,

Plaintiff,

-against-

RUBIN SCHRON, ABE BILLER, BEN BLUMENFIELD, A.K.A. CENTRAL QUEENS PROPERTIES, A.K.A. 853 SEVENTH AVE. OWNERS L.L.C., A.K.A. 853 SEVENTH AVENUE ASSOCIATES, A.K.A. 853 SEVENTH AVE. REALTY CORPORATION, NEIL HARTMAN, SAL KURTZ, VICTOR VIZINHA, MANOEL JEREMIAS, RALPH LOPEZ, GILBERTO SMITH, 853 TENANTS OF 853.

Defendants.

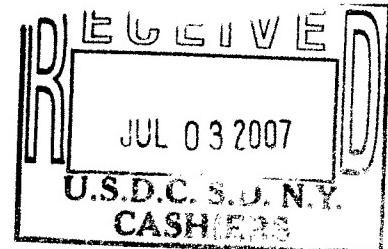
x

JUDGE KAPLAN

07 CIV 6210

Civil Action No.

: **NOTICE OF REMOVAL OF ACTION**



Defendants, Rubin Schron, Abe Biller, Ben Blumenfield, A.K.A. Central Queens Properties, A.K.A. 853 Seventh Ave. Owners L.L.C., A.K.A. 853 Seventh Avenue Associates, A.K.A. 853 Seventh Avenue Realty Corporation, Neil Hartman, Sal Kurtz, Victor Vizinha, Manoel Jeremias, Ralph Lopez and Gilberto Smith (collectively, "Defendants"), by and through their counsel, Robert A. Sparer, desiring to remove this civil action from the Supreme Court of the State of New York, County of New York, Index No. 07601778/07 to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 1441, hereby submit this Notice of Removal and allege as follows:

1. The Plaintiff commenced an action on or about May 29, 2007 by filing a Summons with Notice in the Supreme Court of the State of New York, County of New York, Index No. 07601778/07. The Plaintiff subsequently filed an Amended Summons with Notice in the Supreme Court of the State of New York, County of New York, Index No. 07601778/07 on

June 8, 2007. A copy of Plaintiff's Summons with Notice and Amended Summons with Notice are attached hereto as "Exhibit A," which were served upon Central Queens Properties on June 21, 2007.

2. The Notice of Removal is being filed within thirty (30) days of the receipt by Central Queens Properties of the Summons with Notice and Amended Summons with Notice and is timely filed under 28 U.S.C. § 1446(b).

3. Defendants' time to answer or move with respect to the Summons with Notice and Amended Summons with Notice has not expired.

4. This is a civil action in which the Plaintiff seeks relief for, *inter alia*, alleged violations of the laws of the United States, specifically Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 ("LMRA"). Plaintiff alleges that Defendants breached a contract with Plaintiff when Defendants terminated his employment. The claim, however, requires the interpretation of the collective bargaining agreement between Defendants and SEIU Local 32BJ (the "CBA") inasmuch as the propriety of the termination of Plaintiff's employment requires interpretation of various provisions of the CBA and was subject to arbitration under the CBA. Hence, Defendants seek removal based on the LMRA. Subject matter jurisdiction is conferred by 28 U.S.C. § 1331 and 28 U.S.C. § 1441.

5. Plaintiff also alleges violations of the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* ("ERISA"). Plaintiff may be seeking an interference with his retirement benefits resulting from the termination of his employment by Defendants. Thus, Defendants also seek removal based on ERISA, specifically 29 U.S.C. § 1132(e) which grants the district courts of the United States exclusive jurisdiction over such claims. Subject matter jurisdiction is conferred by 28 U.S.C. § 1331 and 28 U.S.C. § 1441.

6. This is an action over which the United States District Court has original federal question jurisdiction, pursuant to 28 U.S.C. § 1331. The federal statutes under which Plaintiff's claims arise are 29 U.S.C. § 185 and 29 U.S.C. § 1132(e). Accordingly, this action may be properly removed to this Court pursuant to 28 U.S.C. § 1441.

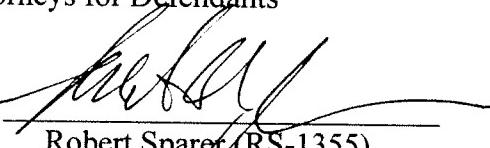
**WHEREFORE**, Defendants, whose attorney has signed the Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure, respectfully request that this action be removed to the United States District Court for the Southern District of New York.

Dated: New York, New York  
July 3, 2007

Respectfully submitted,

CLIFTON BUDD & DeMARIA LLP  
Attorneys for Defendants

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